

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2098

SPONSOR: Children and Families Committee and Senator Wise

SUBJECT: Caregivers for disabled or elderly adults

DATE: March 17, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	_____	_____	<u>HC</u>	_____
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for SB 2098 provides legislative intent to foster the development of caregiving for disabled or elderly adults as a non-licensed paraprofessional activity and to promote the caregivers’ use of best practices. The committee substitute creates the Florida Caregiver Institute, Inc., as an independent non-profit corporation administratively housed in the Agency for Workforce Innovation. The committee substitute further specifies the purposes, duties, and powers of the corporation. The committee substitute provides for a board of directors, mandating the membership of the board, terms of office for board members, meeting requirements, and powers and duties of the board. Annual reports must be submitted to the Governor and Legislature from the corporation. Related duties of the Agency for Workforce Innovation and other public agencies are specified.

The Office of Program Policy and Governmental Accountability (OPPAGA) is directed to conduct a review of the corporation and to provide a report to the Governor and the Legislature by October, 2007.

This committee substitute creates an undesignated section of the Florida Statutes.

II. Present Situation:

At adult family care homes (AFCHs), adult day care centers (ADCCs), and assisted living facilities (ALFs), staff persons are responsible for “caregiving” or providing certain types of care or assistance to persons that enable them to live as independently as possible. It is reported that staff providing caregiving may be referred to by a number of job descriptions such as Universal Workers, Resident Assistants, or Medical Aides. The requirements for staff training and education vary depending upon the setting and the specific job responsibilities of the staff.

Although staff persons are required to pass certain types of training, they are not required to have a high school diploma.

Assisted Living Facilities (ALFs)

Direct care staff who are employed by ALFs¹ are responsible for providing or supervising the provision of personal or nursing services as defined in Rule 58A-50131, F.A.C., to residents of the facility. The training and education requirements for these staff are provided for in s. 400.452, F.S., and are applicable for the administrator, managers, and other staff working at assisted living facilities. Additional specifications for staff training requirements are provided in Rule 58-5.019, F.A.C.

The training that is required for ALF staff includes:

- Administrators/Managers Training (Assisted Living Facility Core Training or ALFCT)
- Staff In-service Training
- HIV/AIDS Training
- First Aid and CPR
- Assistance with Self-Administered Medication Training
- Limited Mental Health Training
- Alzheimer's Disease and Related Disorders.

The ALFCT provides 26 hours of training that must be completed by facility administrators and managers within three months of being hired. Upon the completion of this training, a competency-based examination must be passed in order for the administrator or manager to retain his or her position.

Until recently, the ALFCT was the only training delivered by DOEA staff. All other training has been reviewed and approved by DOEA but delivered by private training providers. The 2003 Legislature directed the privatization of the ALFCT training as well. While the ALFCT was being provided by DOEA, it was not unusual for staff other than the administrator and the managers to attend this training and take the exam.² Training was provided by 11 trainers located throughout the state. Costs for training ranged from "no charge" to \$160 depending on the number of residents receiving Optional State Supplementation (OSS) funding at the facility. The costs for the examination, which is developed by the University of South Florida (USF), were paid by DOEA and ranged in price from "no charge" to \$45 depending on the number of residents receiving OSS funding at the facility. According to a report completed by the Florida State University Pepper Institute,³ the benefits of this training included a very high level of customer satisfaction with the training, the provision of technical assistance and consultation by the trainers following the completion of training, and the provision of valuable input by trainers into policy making at DOEA. This report reflected that the DOEA-provided training was both cost efficient and effective.

¹ Assisted living facilities (ALFs) provide housing, meals, and personal assistance to frail elders and persons with physical and mental disabilities who need support to live in the community but do not require institutionalization.

² The University of South Florida (USF) developed an examination for this training that is reliable and has been validated. DOEA reports that the exam is the property of USF.

³ DOEA Assisted Living Training Program (ALTP) Evaluation and Privatization Feasibility Study, Conducted for the Department of Elder Affairs (September 30, 2002).

However, since the privatization of core training, concerns have been raised regarding decreased availability and increased costs. The cost of training has increased to over \$200 per person, and the cost for the examination has increased from \$45 to \$100.⁴ Prior to March 2004, the newly privatized training was not available in the northern part of the state. Persons needing this training were required to travel to Jacksonville or Tampa, resulting in additional travel expenses to attend the five day training. It is reported by DOEA that only ALF administrators and managers are currently attending the ALFCT.

Adult Day Care Centers (ADCC)

Adult Day Care Centers are licensed in accordance with chapter 400, Part V, F.S., to provide basic services for part of a day to three or more persons 18 years of age or older who are not related to the owner or operator by blood or marriage. All staff employed by an ADCC must receive basic written information about interacting with participants who have Alzheimer's disease or dementia related disorders. Section 400.5571, F.S., requires new employees having direct contact with participants who suffer from Alzheimer's disease or other dementia related disorders to complete certain training within specified time periods. Training requirements of staff employed by an ADCC vary based upon the work performed by the individual.

Adult Family Care Homes (AFCH)

Adult Family Care Homes are licensed in accordance with chapter 400, Part VII, F.S., to provide room, board, and personal care on a 24-hour basis for up to five individuals. Staff in these settings are either employed or under contract with the provider to render services to residents. The providers of these homes must complete a 12-hour basic adult family home care course meeting the requirements specified in s. 400.6211, F.S., prior to accepting any residents. Any staff persons who provide relief for the provider or who are left in charge of residents must complete training that is relevant to their job duties including emergency and evacuation procedures, universal precautions, food safety, abuse and neglect reporting, and resident rights.

Although there is anecdotal evidence that there is a need to further develop the pool of applicants to become a "caregiver," there does not appear to be any data that supports this finding.

III. Effect of Proposed Changes:

The committee substitute for SB 2098 provides for legislative intent to foster the development of caregiving for disabled and elderly adults as a non-licensed paraprofessional activity and to promote the caregivers' use of best practices. The committee substitute creates the Florida Caregiver Institute, Inc., as an independent non-profit corporation administratively housed in the Agency for Workforce Innovation (AWI). The committee substitute further specifies the purposes, duties, and powers of the corporation and provides for a board of directors. This committee substitute mandates the membership of the board of directors, terms of office, meeting requirements, and powers and duties of the board. This committee substitute requires the corporation to provide annual reports to the Governor and Legislature and specifies related duties of AWI and other public agencies. The Office of Program Policy and Governmental

⁴ Costs have increased due to the fees charged for training by the privatized trainers and an increase in the cost of the exam by USF.

Accountability (OPPAGA) is directed to conduct a review of the corporation by October 1, 2007, and to provide a report to the Governor and the Legislature.

Section I:

This section of the committee substitute provides for legislative intent to foster the development of caregiving as a non-licensed paraprofessional activity to provide care for frail and vulnerable Floridians who live in the community, a licensed ALF or a licensed AFCH or attend an ADCC. The committee substitute also provides for intent to promote the use of nationally recognized best-practices information by front-line caregivers to improve the quality of care, as well as improve uniformity of techniques, practices, and standards that are used in caring for the state's most vulnerable residents. The term "caregiver" is not defined for the purposes of this legislation. Further, caregiving is not currently a defined or licensed occupation, and AWI reports that the need to further develop this type of position has not been clearly established. This committee substitute does not specify who these caregivers are or how inclusive the term is intended to be.

The Corporation

The committee substitute for SB 2098 creates the Florida Caregiver Institute, Inc., which is also referred to as "the corporation." The corporation is created for the purpose of developing best-practices information and placing that information in the hands of persons providing care for persons living in communities, facilities, homes, or attending an adult day care center that is licensed under part III, V, or VII of chapter 400, F.S. The committee substitute directs that the corporation is to be organized as a not-for-profit corporation in compliance with ch. 617, F.S., and that it is not a unit or entity of state government. While the corporation is administratively housed within AWI, it is not subject to the control of this agency. The committee substitute directs the corporation to work in collaboration with the agency to help improve the availability of caregivers and their utilization of "best practices." However, AWI's focus on job development is based upon an established need for a certain type of job, a criterion which it reports has not been met for "caregiver." The agency is currently involved the development of CNA positions, for example, a position which also provides services in ALFs, for which there is an established need.

Although the corporation is not subject to the control of AWI, the corporation is directed to develop an agreement with the agency for the agency's provision of start-up and administrative support, with the expectation that the corporation will not rely on the agency for staff or financial assistance after June 1, 2005. The agency reports that it is unclear what its role in providing administrative support would involve. Further, the agency reports that due to the restrictive nature of funding that it receives from the United States Department of Labor, it is unlikely that any expenditure for the corporation would be allowed.

Purpose and Responsibilities of the Proposed Corporation

The committee substitute for SB 2098 directs the corporation to assist AWI with the development of policy recommendations to enhance the agency's efforts to improve the availability and skills of individuals seeking to work as caregivers in the home, community, AFCH, ALF, or ADCC. The corporation is also directed to exercise certain responsibilities including:

- seeking state, federal, and private funding;
- working with universities and policy exchange centers to develop training materials, identify best-practices techniques, and develop a curriculum;
- conducting a needs assessment of caregivers working in the community or facilities licensed under part III, V, or VII of chapter 400, F.S.;
- making recommendations to AWI, DOEA, DCF, and AHCA regarding policy and related changes to help improve the quality, availability, and retention of non-licensed caregivers;
- reviewing and forecasting the need for non-licensed caregivers in specified areas;
- making recommendations to the Legislature and Governor on proposed legislative changes and budget related items; and
- developing agreements with AHCA, DOEA, DOH, DCF, and any other state agency for the purpose of accessing state-owned buildings and state employees to provide training and professional development.

The committee substitute further authorizes the corporation to charge a reasonable fee to provide training for caregivers, to offer core training and testing to ALFs, and to contract with AWI for the provision of staff support, research, technical assistance, and data storage under a memorandum of agreement.

There is currently only one policy exchange center, and it is located at the University of South Florida. However, the Pepper Institute at Florida State University is also involved in research relating to older populations, and it actively seeks grant funding to benefit this population. It is unclear whether the intent of this committee substitute is to only work with USF or to work with a number of colleges or universities.

A contract is currently in effect between USF and DOEA for the development of testing for the ALFCT that does not expire until December, 2004. The department reports that it is satisfied with the product that is being supplied by USF and sees no reason to change this process. It has taken a long period of time to develop a properly validated instrument, and changing the contract would require starting the development process over, as the test is proprietary to USF.

Also, DOEA already conducts a caregiver needs assessment that is required by the department's performance measures. This information is used by the department's strategic planning office to make improvements to the current service delivery system. The department appears to have an effective system of information gathering and analysis in place. Creating another assessment procedure for the same population would be duplicative and expensive.

Most state agencies do not have the resources immediately available to provide the support for the corporation that is directed by this committee substitute. Additional funding may be necessary to establish work space and provide staffing resources. It is not clear how the actions directed by this committee substitute fit with the priorities that have been established and funded by the Legislature for the various public agencies.

The committee substitute for SB 2098 also directs the corporation to collect information regarding the development of non-licensed caregivers who work in the community and in facilities licensed under part III, part V, or part VII of chapter 400, Florida Statutes. The

committee substitute specifies that the information collected must include but is not limited to the salary rates for various positions, professional development needs of caregivers, turnover rates, retention, and the number of caregivers using best-practices information in day-to-day care related activities. The corporation must also develop a memorandum of understanding with AWI describing how the corporation will interact in carrying out its responsibilities. Completing this task will require the development of a data base, a system for collecting desired information, and the capability of analyzing the information to make recommendations. This initiative will require staff with both particular expertise and the proper equipment to complete this activity.

Appointments and Membership

The board of directors is to consist of 13 members who represent the views, interests, and perspectives of the parties, individuals, and stakeholders affected by the activities of the corporation. Each member is to be appointed to a two year term and may not be reappointed to more than three additional terms with the exception of initial legislative appointments that shall be for three years. The board of directors for the corporation shall include:

- One member appointed by the Florida Association of Homes for the Aging;
- One member appointed by the Florida Assisted Living Affiliation;
- One member appointed by the Alzheimers Association;
- One member appointed by the Florida Council on Aging;
- Three members appointed by the Governor;
- Three members appointed by the President of the Senate; and
- Three members appointed by the Speaker of the House.

The committee substitute requires that the Governor, President of the Senate, and the Speaker of the House of Representatives make their initial appointments no later than September 1, 2004.

The chair is to be elected by the members and may not serve more than two one-year terms and may not be a state employee. The corporation is directed to develop by-laws, follow Robert's Rules of Order and to meet quarterly unless the chair considers it appropriate to meet more often. The majority of the corporation membership constitutes a quorum. The corporation is directed to make its meetings open to the public and accept input from stakeholders. The chair is responsible for ensuring that accurate meeting minutes are kept and may appoint advisory committees to advise the corporation on particular issues. Although establishing the corporation as a not-for-profit entity enables the corporation to function autonomously, it does not provide an exemption from the requirements of ch. 119, F.S., relating to public records or ch. 286, F.S., pertaining to public meetings.

Funding and Staffing

The committee substitute for SB 2098 authorizes the corporation to charge fees for training, employ staff and contract with consultants. The committee substitute further requires the corporation to establish an audit committee consisting of board members, to annually review and report on the financial condition of the corporation. This committee is to provide to the Governor and Legislature a report that includes a complete accounting for all revenues and expenses incurred by the corporation.

This committee substitute does not address mechanisms for the corporation to accept and manage funding. Further, it is not clear that the membership of the board will include persons who are qualified to complete a financial audit. Certified public accountants are typically used to complete these types of audits to ensure accuracy and unbiased reporting. The committee substitute does authorize the corporation to hire staff, so, if funding is available, it would be possible for someone to be hired with the expertise needed to complete the audit.

Evaluation

The committee substitute for SB 2098 requires the corporation to annually evaluate and report to the Legislature and the Governor the status of its work relative to promoting the use of best practices by front-line caregivers and developing non licensed caregivers. This annual report is due in October of each year.

Section 2:

This section of CS/SB 2098 directs OPPAGA to conduct a review of the Florida Caregiver Institute, Inc., and to report to the Legislature and the Governor as to whether the corporation has been effective in helping the state meet its goals of improving the retention of non-licensed caregivers in the community and in facilities licensed under part III, part V, or part VII of chapter 400, F.S., and whether it has been successful in promoting the use of best-practice techniques by front-line caregivers who care for Florida's frail and disabled adult population

Section 3:

This section specifies that this committee substitute will take effect on July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unclear what the current demand is for a “caregiving” position.

The corporation will need funding for start-up. The costs associated with establishing a similar corporation established by the 2003 Legislature was \$250,000.

There is an as yet undetermined cost for the corporation to perform the responsibilities assigned by this committee substitute. These responsibilities include developing training curricula and materials, conducting a caregiver needs assessment, reviewing and forecasting the need for caregivers in certain areas, developing core training materials including the statutorily mandated competency tests, and collecting and reporting certain information regarding the caregiver population.

C. Government Sector Impact:

The Agency for Workforce Innovation reports that due to the restrictive nature of the funding that is received from the United States Department of Labor, expenditure associated with providing support for the corporation are disallowed. Additional funding would be required to provide support for the corporation.

There will be costs incurred by DOEA, departments providing office space and staffing resources to the corporation.

The Department of Elderly Affairs reports that they no longer have the staffing or infrastructure capacity to meet the provisions of this committee substitute. (The training function was privatized during the 2003 Legislative Session A.)

VI. Technical Deficiencies:

On page 5, line 29, the word “Aged” should be “Aging” to properly reflect the title of the association.

VII. Related Issues:

Some of the functions specified by the committee substitute for the corporation are already being done by other entities. This committee substitute may result in duplicative efforts and reporting.

A mission of the Florida Policy Exchange Center on Aging, USF, is to provide policymakers with information and to recommend ways to make programs more responsive to the needs and preferences of older adults. The center also coordinates training to public and private organizations serving elders in Florida. The Florida Policy Exchange Center may be an appropriate placement for the corporation.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
